

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JUAN CARLOS VERA,

Plaintiff,

vs.

JAMES O'KEEFE, III, et al.,

Defendant.

CASE NO. 10cv1422-L (MDD)

AMENDED CASE MANAGEMENT  
ORDER REGULATING  
DISCOVERY AND OTHER  
PRETRIAL PROCEEDINGS  
[Doc. No. 63]

On December 7, 2011, Plaintiff submitted a Second *Ex Parte* Motion to Amend the Case Management Order. (Doc. No. 63). Specifically, Plaintiff is seeking an extension of: a) The deadline for amending the pleadings; b) Expert disclosure and rebuttal disclosure dates; c) The discovery cut-off deadline; d) The motion filing deadline; and, e) Pretrial conference and related dates. Defendants filed an Opposition on December 8, 2011. (Doc. Nos. 64 and 65). Defendants oppose an extension of Plaintiff's deadline to file a motion to amend the pleadings and an extension of the expert designation deadlines.

Plaintiff filed his complaint on July 8, 2010. (Doc. No. 1). The parties exchanged initial disclosures in January 2011. (Doc. No. 15). Written discovery began in March 2011. (Doc. No. 18). Full discovery commenced July 11, 2011. (Doc. No. 41). For the reasons stated herein, Plaintiff's motion is granted in part and denied in part.

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1           a. Motion to extend deadline to amend the pleadings

2           Plaintiff's deadline to amend his complaint was August 1, 2011. In his motion, Plaintiff  
3 outlines alleged difficulties obtaining discovery from Defendants which he implies is the reason he  
4 lacks the information needed to amend the pleadings. Specifically, Plaintiff alleges that  
5 Defendants have expressed their intention to not respond to deposition questions seeking  
6 information previously held by this Court to be irrelevant in connection with a discovery dispute.  
7 In particular, this Court has held that information pertaining to the involvement of third parties, if  
8 any, in episodes of recording ACORN employees other than Plaintiff, is not relevant to the single  
9 cause of action brought by Plaintiff for violating his right to privacy under California law. (Doc.  
10 No. 43). Plaintiff claims in his motion that the Defendants' expressed intention not to answer  
11 questions regarding the involvement of third parties in other recording episodes, as provided by  
12 this Court's discovery Order, has hamstrung his ability to identify additional defendants. Plaintiff  
13 and Defendant O'Keefe have objected to portions of the discovery Order. (Doc. Nos. 44, 46).  
14 Plaintiff appears to have chosen not to pursue depositions pending a ruling by the District Court on  
15 his objections. That tactical choice by Plaintiff is not sufficient grounds to provide additional time  
16 to amend the pleadings. Unless and until the District Court sustains Plaintiff's objections, the  
17 discovery Order is the law of the case and must be followed. Accordingly, Plaintiff's motion to  
18 extend the deadline to amend the pleadings is denied.

19           b. Motion to extend expert disclosure and rebuttal disclosure dates

20           Plaintiff has presented no argument in support of his request to extend the expert disclosure  
21 dates. Defendants note that the original deadlines for disclosure passed "without any word from  
22 Plaintiff." (Gile's Opp. at 3). Indeed, the Court is concerned Plaintiff has missed the original  
23 deadlines. However, since other dates are being extended by agreement, the Court will grant a  
24 brief extension to allow Plaintiff to identify any experts. Because the Court is extending these  
25 deadlines, Plaintiff is gaining a benefit he should not overlook. Failure to abide by the amended  
26 discovery deadlines could result in Plaintiff being precluded from presenting expert testimony at  
27 trial.  
28

1 c. Motion to extend the discovery cut-off deadline

2 The Court finds good cause to extend the discovery cut-off date. Defendants do not oppose  
3 an extension of discovery.

4 d. Motion to extend the dispositive motion filing deadline and; e. Motion to continue the  
5 Pretrial Conference and related dates

6 After conferring with Judge Lorenz, and in conjunction with extending discovery, the  
7 Pretrial Conference and other related dates will also be extended. Therefore, the Court issues the  
8 following amended Scheduling Order:

9 1. The parties shall disclose the identity of their respective experts in writing by  
10 *January 6, 2012*. The date for the disclosure of the identity of rebuttal experts shall be on or before  
11 *January 20, 2012*. The written designations shall include the name, address and telephone number  
12 of the expert and a reasonable summary of the testimony the expert is expected to provide. The list  
13 shall also include the normal rates the expert charges for deposition and trial testimony. **The**  
14 **parties must identify any person who may be used at trial to present evidence pursuant to**  
15 **Fed. R. Evid. 702, 703 and 705, respectively. This requirement is not limited to retained**  
16 **experts.**

17 2. On or before *February 9, 2012*, each party shall comply with the disclosure  
18 provisions in Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. **This disclosure**  
19 **requirement applies to all persons retained or specifically employed to provide expert**  
20 **testimony or whose duties as an employee of the part regularly involve the giving of expert**  
21 **testimony.**

22 3. Any party shall supplement its disclosure regarding contradictory or rebuttal  
23 evidence under Rule 26(a)(2)(c) on or before *March 9, 2012*.

24 4. **Please be advised that failure to comply with this section or any other**  
25 **discovery order of the court may result in the sanctions provided for in Fed.R.Civ.P.37**  
26 **including a prohibition on the introduction of experts or other designated matters in**  
27 **evidence.**

28 5. All discovery, including experts, shall be completed by all parties on or before *April*

1 **9, 2012.** "Completed" means that all discovery under Rules 30-36 of the Federal Rules of Civil  
 2 Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period of time in  
 3 advance of the cut-off date, *so that it may be completed* by the cut-off date, taking into account the  
 4 times for service, notice and response as set forth in the Federal Rules of Civil Procedure. Counsel  
 5 shall promptly and in good faith meet and confer with regard to all discovery disputes in  
 6 compliance with Local Rule 26.1(a). All discovery motions shall be filed within 30 days after  
 7 counsel have met and conferred and reached an impasse with regard to any particular discovery  
 8 issue, but in no event shall discovery motions be filed more than 30 days after the close of  
 9 discovery.

10 6. A Mandatory Settlement Conference shall be conducted on ***April 27, 2012*** at ***9:30***  
 11 ***a.m.*** in the chambers of Magistrate Judge Mitchell Dembin. Counsel shall submit settlement briefs  
 12 **directly** to chambers no later than ***April 23, 2012***. The briefs shall set forth the party's statement of  
 13 the case and the party's settlement position, including the last offer or demand made by that party  
 14 and a separate statement of the offer or demand the party is prepared to make at the Settlement  
 15 Conference. Settlement Conference briefs shall not exceed ten (10) pages in length, and shall *not*  
 16 include exhibits or attachments. All parties and claims adjusters for insured defendants and  
 17 representatives with complete authority to enter into a binding settlement, as well as the principal  
 18 attorney (s) responsible for the litigation, must be present and legally and factually prepared to  
 19 discuss and resolve the case at the Mandatory Settlement Conference. **Any special arrangements**  
 20 **desired in cases where settlement authority rests with a governing body shall be proposed in**  
 21 **advance.**

22 7. All other pretrial motions must be filed on or before ***May 7, 2012***. Please be  
 23 advised that counsel for the moving party must obtain a motion hearing date from the law clerk of  
 24 the judge who will hear the motion. Failure to make a timely request a motion date may result in  
 25 the motion not being heard.

26 8. Counsel shall comply with the Pre-trial disclosure requirements of Federal Rule of  
 27 Civil Procedure 26(a)(3) on or before ***July 2, 2012***.

28 9. Counsel shall meet and take the action required by Local Rule 16.1 (f) (4) on or

1 before *July 9, 2012*.

2 10. Objections to Pre-trial disclosures shall be filed no later *than July 16, 2012*.

3 11. The Proposed Final Pretrial Conference Order required by Local Rule 16.1 (f) (6)  
4 shall be prepared, served, and lodged on or *before July 16, 2012*. The Pretrial Order shall include a  
5 summary description of the case that can be read to the jury.

6 12. The final Pretrial Conference is scheduled on the calendar of **Judge Lorenz** on ***July***  
7 ***23, 2012*** at ***11:00 a.m.***. The trial will be scheduled at the Pretrial Conference.


8 13. A post trial settlement conference before a magistrate judge may be held within 30  
9 days of verdict in the case.

10 14. The dates and times set forth herein will not be modified except for good cause  
11 shown.

12 15. Dates and times for hearings on motions should be approved by the Court's clerk  
13 before notice of hearing is served.

14 16. Briefs or memoranda in support of or in opposition to any pending motion shall not  
15 exceed twenty-five (25) pages in length without leave of a district court judge. No reply  
16 memorandum shall exceed ten (10) pages without leave of a district court judge. Briefs and  
17 memoranda exceeding ten (10) pages in length shall have a table of contents and a table of  
18 authorities cited.

19 DATED: December 14, 2011

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22 Hon. Mitchell D. Dembin  
23 U.S. Magistrate Judge  
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